

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

MICHAEL J. DAVIS, ELENA LOMBARDO,  
CAROL SMITH, ANDREW WHALEN  
*and all others similarly situated,*

*Plaintiffs,*

*versus*

JPMORGAN CHASE & CO.,  
JPMORGAN CHASE BANK,  
CHASE MANHATTAN MORTGAGE  
CORPORATION,

*Defendants.*

NOTICE OF MOTION

Civil Action No.  
01-CV-6492L

MOTION BY:

Plaintiffs Michael J. Davis, Elena Lombardo, Carol Smith and Andrew Whalen, on behalf of themselves and all other employees similarly situated.

RELIEF REQUESTED:

An Order:

1. requiring the issuance of an expedited notice as set forth in Exhibit A to all current and former employees who are or were involved with approving loans, evaluating whether to issue loans to individual loan applicants and/or evaluating loan applications under credit guides and approving loans if they meet standards and who were classified as exempt by defendants;
2. requiring the provision to plaintiff's counsel of a list both electronically (in an Excel spreadsheet) and by hard copy, with each item of the employee's name, current or last known address, phone number, social security number, location of employment, dates of employment, date of

birth and e-mail address designated as a separate field, of all individuals who meet the above class description, within 15 days of the issuance of the order;

3. requiring defendants to post notices and opt-in forms in a conspicuous place (such as break rooms or other such locations) at defendants' locations where employees can see such notices during the pendency of the lawsuit;
4. requiring defendants to e-mail such notices and opt-in forms to employees;
5. requiring defendants to publicize such notice five times in defendants' employee newsletter or other employee communications;
6. appointing Thomas & Solomon LLP as Class Counsel; and
7. for such other relief as this Court deems just and proper.

**BASIS FOR RELIEF REQUESTED:**

Fair Labor Standards Act § 216(b)

**SUPPORTING PAPERS:**

Affirmation of J. Nelson Thomas;  
Affirmation of Sylvia Kraus-Lewicka;  
Plaintiffs' Memorandum of Law in Support of  
Motion for Expedited Notice to Affected  
Employees

**PLACE:**

United States District Court  
Western District of New York  
100 State Street  
Rochester, NY 14614

**DATE AND TIME:**

To be determined by the Court

**REPLY PAPERS:**

Pursuant to Local Rule 7.1(c), plaintiffs intend to file and serve reply papers.

Dated: April 8, 2010

**THOMAS & SOLOMON LLP**

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